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10/623,156	07/21/2003	Joseph Pohutsky	20-520	2708

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EXAMINER	
SHEDRICK, CHARLES TERRELL	
ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,156	POHUTSKY ET AL.	
	Examiner	Art Unit	
	Charles Shedrick	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) *5 and 15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-14 and 16-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

Response to Arguments

1. Applicant's arguments filed 10/29/07 have been fully considered but they are not persuasive.

2. Applicant argues that Lohtia teaches away from having a user attach auxiliary digits to a telephone number because specifically relying on a user's service information profile that is pre-defined and pre-established to designate what information to send to a user.

However, the Examiner respectfully disagree since the mere disclosure of more than one alternative does not criticize, discredit, or otherwise discourage the solution claimed.

1. Applicant argues that, Whitington teaches away from the invention because Applicants' claimed features would not work as envisioned if the feature code were suffixed to the end of the telephone number.

2. In response to applicant's argument that Whitington teaches away from the invention because Applicants' claimed features would not work as envisioned if the feature code were suffixed to the end of the telephone number, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In response to applicant's arguments against the references individually (i.e., *Neustein fails to disclose, teach or suggest anything application to an information telephone call, much less*

disclose, teach or suggest an information telephone call, with an initiating telephone number including at least one auxiliary digit suffixed by a subscriber to an end of the telephone number to specifically request a location-based message, as recited by claims 1-4, 6, 7-14, and 16-31, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, The prior art each teach a desire to distribute or communicate to different users or devices in a more efficient and effect method.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,2,10,11,12,19,20,21,23,24, 26,27,29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohtia (US 6,560,456)** in view of **Whitington U.S. Patent No.: 6,131,028** and further in view of **Neustein US Patent No. 5,225,150**

Regarding claims, 1,11,20,23,26,and 29, Lohtia et al. teaches a method and system of providing location-based reference information in a wireless network comprising: receiving an information telephone call from a subscriber at a mobile switching center, **(Col. 5 line 66-Col.6 line 5),** using a location based service to obtain a location of said subscriber **(Col. 2 line 40, Col. 4 Line 32, and Col. 5 line 30)**; retrieving a message relating to said location based on requested

information, and transmitting said retrieved message in a short message to said subscriber **(Col. 3 Lines 35-42, Col. 4 Lines 48-50, Col. 5 lines 56-59, and Col. 5 Line 66-Col.6 line 5)**.

However, Lohtia et al. does not specify that the location-based service to obtain a location of the subscriber is a wireless service and a telephone number initiating said telephone call including at least one auxiliary digit (feature code) beyond those associated with the information telephone call; retrieving a message relating to said location based on requested information associated with said at least one auxiliary digit. For example, Lohtia teaches location information based on current location of subscriber as cited above, but does not spell out if the system finds the user or if the user enters his location in his profile.

In the same field of endeavor, Whitington, clearly show and disclose a location-based service to obtain a location of the subscriber is a wireless service **(abstract, columns 2-5)** and a telephone number initiating said telephone call including at least one auxiliary digit (feature code) beyond those associated with the information telephone call **(column 3 lines 22-35 and column 4 lines 53-65)**; retrieving a message relating to said location based on requested information associated with said at least one auxiliary digit (i.e., a feature code can be used to obtain directions to the nearest gas station)**(column 3 lines 22-35 and column 4 lines 53-65)**.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include a feature code appended to a telephone number as taught by Whitington for the purpose of automating a location finding service. Whitington teaches that the digits are added to the telephone and in the specification examples are shown where the digits are added as prefix digits.

Nevertheless, Whitington does not explicitly teach that the digits are suffixed by said subscriber to the end of said telephone. In the same token one of ordinary skill in the art would note that Whitington does not explicitly teach that the digits **cannot** be suffixed by said subscriber to the end of said telephone.

However, One of ordinary skill in the art would have recognized at least by the early 90's in a Patent filed, published and granted by Neustein for the teaching of digits are suffixed by said subscriber to the end of said telephone (col. 5 lines 30-35, col. 12 line 65 –67, col. 14 lines 4-10 and 39-54).

Therefore it would have been obvious to person of ordinary skill in the art at the time the invention was made to modify Lohtia as modified by Whitington to include wherein the digit is suffixed to the telephone number by said subscriber for the purpose of location service (e.g., locating a subscriber) as taught by Neustein.

Regarding claims 2,12,21,24,27, and **30** and as **applied to claims 1,11,20,23,26, and 29**, Lohtia et al. clearly teach the claimed invention except the method and system wherein at least two auxiliary digits are included with said information telephone call.

In the same field of endeavor, Whitington clearly show and disclose the method and system wherein at least two auxiliary digits are included with said information telephone call **(column 3 lines 22-35 and column 4 lines 53-65)**.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include at least two auxiliary digits with said information telephone call as taught by Whitington for the purpose of automating a location finding service.

Whitington teaches that the digits are added to the telephone and in the specification examples are shown where the digits are added as prefix digits.

Nevertheless, Whitington does not explicitly teach that the digits are suffixed by said subscriber to the end of said telephone. In the same token one of ordinary skill in the art would note that Whitington does not explicitly teach that the digits **cannot** be suffixed by said subscriber to the end of said telephone.

However, One of ordinary skill in the art would have recognized at least by the early 90's in a Patent filed, published and granted by Neustein for the teaching of digits are suffixed by said subscriber to the end of said telephone (col. 5 lines 30-35, col. 12 line 65 –67, col. 14 lines 4-10 and 39-54).

Therefore it would have been obvious to person of ordinary skill in the art at the time the invention was made to modify Lohtia as modified by Whitington to include wherein the digit is suffixed to the telephone number by said subscriber for the purpose of location service (e.g., locating a subscriber) as taught by Neustein.

Regarding claims 10 and 19 and as **applied to claims 1 and 11**, Lohtia et al. clearly disclose the claimed invention except a method of providing location-based reference information in a wireless network according to claim 11, wherein: said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber.

In the same field of endeavor, Whitington as modified by Neustein clearly show and disclose except a method of providing location-based reference information in a wireless

network according to claim 11, wherein: said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber (**column 4 line 60-65**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. to include said location of said subscriber is determined using a known location of a cell/sector servicing said subscriber as taught by Whitington as modified by Neustein for the purpose of establishing a point of reference in terms of location services.

Claims 3,4,7, 8,9,13,14,17,18,22,25,28,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohtia et al. (US 6,560,456)** in view of **Whitington U.S. Patent No.: 6,131,028** in view of **Neustein US Patent No. 5,225,150 and further in view** of **Bar et al. (US 6,456,852).**

Regarding **Claims 3,13,22,25,28, and 31 and as applied to claims 1,11,20,23,26, and 29,** Lohtia et al. as modified by Whitington clearly teach claimed invention. Lohtia further teaches that an information number can be any number which would obviously include the dialed digits "4-1 –1" (**Col. 5 lines 42-44**).

Although, the dialed digits "4-1-1" is a well known telephone number for information calls, Lohtia et al. as modified by Whitington as modified by Neustein does not specifically state that an information number uses the dialed digits "4-1-1".

In the same field of endeavor, Bar et al. teaches the information number being the dialed digits "4-1-1" (**Col. 3 Line 15**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by

Neustein to include the dialed digits "4-1-1" as the information number utilized for location finding services as taught by Bar et al. By using the dialed digits "4-1-1" it is obvious that dialing for information could be further automated.

Regarding claims 4, 8, 9,14,17, and 18 and as applied to claims 1, and 11, Lohtia et al. as modified by Whitington as modified by Neustein clearly disclose the claimed invention except teaching that the subscriber can be located using wireless or cellular signaling, time difference of arrival, and time of arrival.

However, in the same field of endeavor, Bar et al. teaches that the subscriber can be located using wireless or cellular signaling (**Col. 5 lines 37–49**), time difference of arrival (**Col. 3 line 47**), and time of arrival (**Col. 3 line 46**).

Therefore it would have been obvious to a person at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by Neustein to include or cellular signaling, time difference of arrival, and time of arrival as taught by Bar et al. for the purpose of location services.

Regarding claim 7 and as applied to claim 1 above, Lohtia et al. as modified by Whitington as modified by Neustein clearly disclose the claimed invention except teaching that the location is determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon.

However, in the same field of endeavor, Bar et al. teaches that location determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon (**Col. 3 Lines 25-35**).

Therefore it would have been obvious to a person at the time the invention was made to modify Lohtia et al. as modified by Whitington as modified by Neustein to include a location determined by using a network generated Location based on a centroid of a cell site sector's radio frequency polygon as taught by Bar et al. for the purpose of location services.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohtia et al. (US 6,560,456)** in view of **Whitington U.S. Patent No.: 6,131,028** in view of **Neustein US Patent No. 5,225,150 and further in view of Hines (US2004/0203922).**

Regarding claims 6 and 16 and as applied to claims 1 and 11 above, the Lohtia and Whitington as modified by Neustein combination teaches all the particulars of the claims except locating the subscriber using angle of arrival.

However, Hines teaches locating a wireless device using angle of arrival (**Page 2 (0033)).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Hinès into that of the combination for the obvious reason of having another way to locate the subscriber.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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January 4, 2008

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